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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Written statement submitted by the World Jewish Congress (WJC),
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with the Economic and Social Council
resolution 1996/31.

[11 January 1999]

Introduction

1. The Commission on Human Rights has promoted human rights longer than any other United Nations forum. In 1948, it produced the Universal Declaration of Human Rights, the first international document guaranteeing human rights to all people. In the next 20 years, it penned the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Together, these early efforts provided the world with an International Bill of Human Rights.

2. In 1967, the Commission's focus shifted from drafting a visionary ideal to examining human rights violations. In the past decade it has created a number of procedures to monitor and report on human rights compliance around the world. One of the most important of these procedures is the appointment by the Commission of special rapporteurs to investigate human rights abuses globally and in specific countries. They report publicly on their findings, offer recommendations, and, in short, help to extend the shield of human rights where it is threatened.

3. The manner in which the Commission has examined human rights abuse in the Palestinian territories, however, violates principles set forth in the Charter of the United Nations. By denying Israel equal treatment, procedural fairness and appropriate due process, it breaches article 2 of the Charter of the United Nations and its insistence upon "the sovereign equality of all its members".

4. Israel is subjected to special scrutiny in three ways: a biased mandate governing the inquiry of the Special Rapporteur on the Palestinian territories occupied since 1967; the Commission's refusal to investigate all violators of human rights in the territories; and a politicized Commission agenda that unfairly spotlights alleged Israeli violations.

Mandate of the Special Rapporteur

5. Like the United Nations human rights machinery, Special Rapporteurs must be objective in their search for the root causes of human rights violations. Only without bias can an investigation recommend just, enduring solutions. Instead, the Special Rapporteur on the Palestinian territories has been given a mandate that calls for a biased, partial, and prejudiced inquiry.

6. On 19 February 1993, the Commission adopted resolution 1993/2 A entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine". It called for the appointment of a special rapporteur "to investigate Israel's violations of the principles and bases of international law, international humanitarian law and the [Fourth] Geneva Convention ... in the Palestinian territories occupied by Israel since 1967". 1/ Furthermore, this investigation will continue "until the end of the Israeli occupation of those territories". 2/

7. The mandate of the Special Rapporteur presupposes Israel's abuses. No other country-specific Rapporteur - including those for Rwanda, Afghanistan,

Iraq, or the former Yugoslavia - has a mandate that prejudices the outcome of the investigation. No mandate assumes that a country has violated human rights before uncovering evidence.

8. In his report to the Commission at its fifty-fourth session, the Special Rapporteur on the Palestinian territories asserts "that his role is not an accusatory one". 3/ Yet, the Commission has directed the Special Rapporteur to examine "Israel's violations" in the Palestinian territories, not the problems that occur there. The Special Rapporteur, himself, later writes that "the mandate prejudices the outcome of [his] investigation". 4/

9. The Commission has appointed the Special Rapporteur to the Palestinian territories until Israel ends its occupation. The Special Rapporteur's mandate is open-ended. At designated intervals, the mandates of all other Special Rapporteurs are reviewed by the Commission. The Special Rapporteur to the Palestinian territories is the sole exception, highlighting further the prejudicial mandate under which this Special Rapporteur functions.

10. The Special Rapporteur believes his task is to "prevent violations of human rights and improve the overall human rights situation" in the area. 5/ But even if violations persist, the Special Rapporteur's investigation will end when Israel leaves the Territories. The Special Rapporteur's mandate could expire without a decline or end to human rights abuses in the Territories.

Palestinian Authority Responsibility

11. The Special Rapporteur writes that human rights concerns in Palestinian society are rooted partly in Palestinian abuses, 6/ and that one of the four reasons for Palestinian frustration is violations committed by the Palestinian Authority. 7/ Yet, the Special Rapporteur focuses almost entirely on alleged Israeli violations.

12. The Special Rapporteur's one-sided report ignores the Palestinian Authority's human rights record. Since the peace process began in 1993, Israel has transferred responsibility for 97 per cent of the Palestinian population to the Palestinian Authority. Education, health, social welfare, taxation, the judiciary, prisons, the police, and countless other necessities for daily life are under Palestinian jurisdiction.

13. Credible, independent reports issued by Human Rights Watch, Amnesty International, and the United States State Department all charge the Palestinian Authority with committing human rights violations: arbitrary detentions, unfair trials, torture, interfering with the Palestinian press, arresting and threatening human rights activists and "creating a climate of intimidation and fear", 8/ to name just a few. 9/

14. The Commission must expand the mandate of the Special Rapporteur to the Palestinian territories to include all possible sources of abuse. Restricting the Special Rapporteur's investigation to "Israel's violations" delays real solutions to urgent problems.

The Commission's agenda

15. The Commission's agenda spotlights Israel at the expense of human rights in the territories. For the past several years, the Commission has examined the "Question of the violation of human rights in the occupied Arab territories, including Palestine" as the first substantive item on its agenda. It is not discussed when the Commission considers the "Question of the violation of human rights and fundamental freedoms in any part of the world".

16. The Commission has rightfully attempted to restructure its agenda. But its new format still continues to discriminate structurally against one United Nations Member State by examining Israel apart from all other nations. Each State, including Israel, should receive equal treatment and be placed under the same agenda item for discussion.

17. Israel's prejudged human rights abuse is the only country-related matter debated separately from all other country violations. This departure from procedural fairness undermines the Commission's legitimacy in examining all human rights violations around the world.

Notes

1/ Commission on Human Rights, resolution 1993/2 A, paragraph 4 (a).

2/ Idem.

3/ Report on the situation of human rights in the Palestinian territories occupied since 1967, submitted by Mr. Hannu Halinen, Special Rapporteur, pursuant to Commission on Human Rights resolution 1993/2 A, E/CN.4/1998/17, paragraph 4, 19 February 1998.

4/ Ibid., paragraph 72.

5/ Ibid., paragraph 4.

6/ Ibid., paragraph 76.

7/ Ibid., paragraph 65.

8/ Palestinian Self-Rule Areas, Human Rights Watch, September 1997.

9/ Palestinian Self-Rule Areas, Human Rights Watch, September 1997.
AI Report 1997: Palestinian Authority, Amnesty International, 1997. The Occupied Territories Report on Human Rights Practices for 1997, United States Department of State, 30 January 1998.